

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MARVIN THOMAS,	)	
	)	
Petitioner,	)	
	)	Civil Action No. 2:07cv638-LSC
v	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

Pursuant to the orders of this court, the United States has filed a response addressing the claims presented by the petitioner in his 28 U.S.C. § 2255 motion. In its response (Doc. No. 11), the government argues that the petitioner's claims are without merit and provide no basis for relief. Specifically, the government maintains that the petitioner's claims that (1) he was not present at the September 7, 2006, hearing and, as such, could not have and did not sign the plea agreement as either defendant or defense attorney; and (2) he was acting as his own counsel and that, as such, Timothy Halstrom's signature on the plea agreement, as attorney for defendant, negates the plea agreement, are not supported by the record. Accordingly, it is

**ORDERED** that **on or before February 20, 2008**, the petitioner may file a reply to the response filed by the United States. Any documents or evidence filed after this date will not be considered by the court except upon a showing of exceptional circumstances. At any time after February 13, 2008, the court shall "determine whether an evidentiary hearing is

required. If it appears that an evidentiary hearing is not required, the [court] shall make such disposition of the motion as justice dictates.” Rule 8(a), *Rules Governing Section 2255 Proceedings in the United States District Courts*.

The petitioner is instructed that when responding to the assertions contained in the government’s response, he may file sworn affidavits or other documents in support of his claims. Affidavits should set forth specific facts that demonstrate that the petitioner is entitled to relief on the grounds presented in his § 2255 motion. If documents that have not previously been filed with the court are referred to in the affidavits, sworn or certified copies of those papers must be attached to the affidavits or served with them. When the petitioner attacks the government’s response by use of affidavits or other documents, the court will, at the appropriate time, consider whether to expand the record to include such materials. *See Rule 7, Rules Governing Section 2255 Proceedings in the United States District Courts*. The petitioner is advised that upon expiration of the time for filing a response to this order, the court will proceed to consider the merits of the pending § 2255 motion pursuant to Rule 8(a).

Done this 28<sup>th</sup> day of January, 2008.

/s/Susan Russ Walker  
SUSAN RUSS WALKER  
UNITED STATES MAGISTRATE JUDGE